

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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JANICE KOEHNE, as Administratrix of the
Estate of ERIC KOEHNE, Deceased,

Plaintiff,

21 Civ.

-against-

COMPLAINT

PORT AUTHORITY TRANS HUDSON CORP.,

Defendant.

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COMPLAINT

Plaintiff, by his attorneys, Flynn & Wietzke, PC, complains of the Defendant and alleges:

THE PARTIES

1. The plaintiff is a resident of the State of New Jersey, County of Bergen, and City of Lyndhurst.
2. The defendant is a railroad carrier corporation providing railroad transportation, in interstate commerce by rail and operates a railroad system and railroad yards within the jurisdiction of this Court and in various other States, with a usual place of business in New York.
3. That prior to December 20, 2018, and at all times hereinafter mentioned, the defendant employed the plaintiff as a track inspector under its direction, supervision and control and in furtherance of defendant's business in interstate commerce.
4. That prior to December 20, 2018, and at all times hereinafter mentioned, the defendant maintained, operated and controlled the right-of-way east of Harrison Station, Harrison, New Jersey which contained defendant's tracks, rails, switches, sidings, roadbeds and appurtenances thereto, over, through and upon which the defendant operated engines, trains and cars under its control and direction
5. During all times herein mentioned, the defendant was and is engaged in interstate commerce by providing railroad transportation among multiple states.

6. On December 20, 2018 and at all times relevant, Eric Koehne and Janice Koehne were husband and wife.

7. On April 5, 2021, Eric Koehne died in the County of Bergen, State of New Jersey due to unrelated matters.

8. On June 1, 2021, Eric Koehne's wife, Janice Koehne was issued Letters Testamentary and named Executrix of the Estate for Eric Koehne by the State of New Jersey Bergen County Surrogate's Court.

JURISDICTION AND VENUE

9. The plaintiff brings the First Cause of Action against the defendant for violation of the Federal Employers' liability Act, 45 U.S.C. §51 et seq. (FELA).

10. This Court has subject matter jurisdiction in this case pursuant to 45 U.S.C. §56.

11. Venue is proper in this District because a substantial part of the events or omissions giving rise to the claim occurred in this District, because defendant resides in this District and/or because defendant does business in this District.

FACTS

12. At the time of the defendant's FELA violations, the plaintiff was employed by the defendant and qualified as an employee within the meaning of 45 U.S.C. § 51.

13. On December 20, 2018, the plaintiff was working as a track inspector at the direction and training of defendant, when plaintiff was walking G8 track in a westerly direction, east of Harrison Station in Harrison, New Jersey when plaintiff was struck on his left side by an eastbound UTV shoving a flat, causing plaintiff to sustain injuries to his elbow, ribs, shoulder, knee, lung, etc.

14. Defendant's conduct, more specifically set forth below, caused, in whole or in part, the plaintiff to suffer various physical, psychological and economic harms.

15. Plaintiff's injuries include, but are not limited to, fractured radius; fractured ulna; fractured rib; injured shoulder and knee; collapsed lung, etc.

COUNT I
Violation of FELA

16. The plaintiff adopts by reference and realleges each and every allegation set forth in the foregoing paragraphs of this Complaint with the same force and effect as if set forth under this cause of action.

17. This Cause of Action is brought under the Federal Employers' Liability Act, (45 U.S.C. Sec. 51 et seq.).

18. On or about December 20, 2018, while the plaintiff, an employee of the defendant, was in the performance of his duties as a track inspector along the right-of-way east of Harrison Station, Harrison, New Jersey, the defendant, its agents, servants and employees, so negligently and carelessly conducted themselves toward the plaintiff:

- a. in failing to provide plaintiff with a reasonably safe place to work;
- b. in failing to warn plaintiff of an approaching UTV;
- c. in operating on track rail equipment in excess of speeds permitted by federal rail safety regulations;
- d. in failing to provide a look-out at the easterly end of the flat;
- e. in failing to comply with federal rail safety regulations relating to stopping within on half the distance to any obstruction;
- f. in failing to comply with federal Roadway Worker Protection regulations;
- g. in failing to keep plaintiff in site while passing him on track;
- h. in failing to maintain plaintiff's work place; and, so negligently failed and neglected to enact and enforce safety rules, regulations, procedures, and practices for activities carried out by its personnel at the said place, that all of the foregoing brought about severe and disabling injuries to plaintiff, as set forth above.

19. The relevant injuries occurred while the plaintiff was acting in the furtherance of interstate commerce or in work closely or substantially affecting the same.

20. The plaintiff was damaged thereby in a sum in excess of \$100,000.00.

WHEREFORE, plaintiff demands judgment against the defendant on Count I in a sum in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS; together with the costs and disbursements of this action.

Respectfully submitted

By: 

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